

358.d.1
K Great Brit. George III



A N

Cap. 62.

A C T

F O R

Dividing and Inclosing the Open Fields, Meadows,
Common Pastures, and Waste Grounds within the
Townships of *North Muskham*, *Holme*, and *Bathley*,
in the Parish of *North Muskham*, in the County of
Nottingham.



WHEREAS there are several open Fields, Preamble.
Meadows, common Pastures, and waste Grounds
within the Townships of *North Muskham*, *Holme*,
and *Bathley*, in the Parish of *North Muskham*, in
the County of *Nottingham*, containing Three
thousand Acres or thereabouts :

And whereas the Owners of Messuages,
Toststeads, or Cottages within the said Town-
ships and Parish have, in respect of such their
Messuages, Toststeads, or Cottages, a Right of Common during certain
Seasons in each Year, in, over, and upon the said open Fields, Meadows,
and common Pastures, and also a Right of Common upon the said waste
Grounds :

A

And

And whereas the Reverend *Lynford Caryl*, Doctor of Divinity, Prebendary of the Prebend of *North Muskham* within the Collegiate Church of the Blessed *Mary* the Virgin of *Southwell*, in the County of *Nottingham*, in Right of his said Prebend is Lord of the Manor of *North Muskham* aforesaid, of which Manor the said Townships of *Holme* and *Batbley* are Parcel; and the said *Lynford Caryl* is also in Right of his said Prebend Patron of the Vicarage of the Two Medieties of the Church of *North Muskham* aforesaid, and is intituled to certain Glebe Lands and One Moiety of the Great Tithes within the said Parish; which Manor, Glebe Lands, and Tithes are now held by and in the Possession of *Thomas Hutton*, Esquire, and *John Hutton*, Gentleman, in Trust for *Bryan Cooke*, Esquire, by virtue of and under a Lease made to them for Lives by the said *Lynford Caryl*; and the Right Honourable *Thomas Earl Fauconberg* is Owner and Impropiator of the other Mediety of the Great Tithes arising and renewing within the said Parish; and the Reverend *William Harding*, Clerk, is Vicar of the Two Medieties of the said Parish, and in Right of such Vicarage intituled to certain Glebe Lands, and to all the Small Tithes arising within the said Townships of *North Muskham*, *Holme*, and *Batbley*, in the Parish of *North Muskham* aforesaid.

And whereas the Lands and Grounds belonging to the several Proprietors in the said open Fields, Meadows, and common Pastures lie intermixed and dispersed, and it would be advantageous to the several Proprietors of and Persons intituled to and interested in the said open Fields, Meadows, common Pastures, and waste Grounds to have the same divided and inclosed; Yet the same cannot be rendered effectual to answer the Intention of the Parties without the Aid and Authority of Parliament;

May it therefore please your MAJESTY,

Commissioners
art. 1

That it may be Enacted; And be it Enacted, by the KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That *John Cleaver* of *Ganthorpe*, in the County of *York*, Esquire, *William Handley* of *Newark upon Trent*, *George Hodgkinson* of *Southwell*, *Thomas Ponton* of *Barnby in the Willows*, in the said County of *Nottingham*, and *Thomas Oldknow* of the Town and County of the Town of *Nottingham*, Gentlemen, and their Successors, to be elected in Manner herein after-mentioned, shall be and they are hereby appointed Commissioners for setting out, dividing, and allotting all the open Fields, Meadows, common Pastures, and waste Grounds within the said Townships of *North Muskham*, *Holme*, and *Batbley*, in the Parish of *North Muskham* aforesaid, and for putting this Act in Execution, subject to the Rules and Directions herein after-mentioned.

Commissioners
to be
sworn.

And be it further Enacted, by the Authority aforesaid, That no Person or Persons shall be capable of acting as a Commissioner or Commissioners

Commissioners in the Execution of the Powers given by this Act (unless it be the Power hereby given of administering the Oath herein after-mentioned, or of giving Notice of the First Meeting of the Commissioners) until he and they shall have taken and subscribed an Oath to the Effect following :

I A. B. do swear, That I will faithfully, impartially, and honestly, according to the best of my Skill and Judgment, execute the Trusts reposed in me as a Commissioner by virtue of an Act of Parliament for "Dividing and Inclosing the Open Fields, Meadows, Common Pastures, and Waste Grounds within the Townships of North Muskham, Holme, and Bathley, in the Parish of North Muskham, in the County of Nottingham," without Favour or Affection to any Person whatsoever.

Commissioner's Oath.

So help me GOD.

Which Oath it shall and may be lawful for any One of the said Commissioners to administer, and he is hereby required to administer the same to any other of the said Commissioners.

And for the more certain Division of the said Lands, **Be it further Enacted**, by the Authority aforesaid, That a true and distinct Survey shall be made of all the said open Fields, Meadows, common Pastures, and waste Grounds, and of the present inclosed Lands within the said Townships of North Muskham, Holme, and Bathley, before the Twenty-fifth Day of December One thousand Seven hundred and Seventy-one, or as soon thereafter as conveniently may be, by William Fillingham of Flaxborough, in the said County of Nottingham, Gentleman; and in case he shall die, or refuse to survey the same, by such other Person or Persons as the said Commissioners, or any Three or more of them, shall from time to time appoint; and such Survey shall be reduced into Writing, and the Number of Acres, Roods, and Perches belonging to each Proprietor in the said open Fields, Meadows, common Pastures, and inclosed Lands, and also the Number of Acres, Roods, and Perches of the said waste Grounds, shall be therein expressed and described; and such Survey shall be laid before the said Commissioners, or any Three or more of them, at some or One of their Meetings to be held in pursuance of this Act.

Survey to be made.

And be it further Enacted, by the Authority aforesaid, That no Person or Persons who shall be appointed by the said Commissioners to make such Survey as aforesaid, shall be capable of acting as Surveyor or Surveyors for the Purposes aforesaid, until he or they shall have taken and subscribed an Oath to the Effect following :

I A. B. do swear, That I will faithfully, impartially, and honestly, according to the best of my Skill and Judgment, make a true and distinct Survey of all the open Fields, Meadows, common Pastures, and waste Grounds, and also of the present inclosed Lands within the Townships of North Muskham, Holme, and Bathley, in the Parish of North Muskham, in the County of Nottingham, and reduce the same into Writing, and therein set forth the Number of Acres, Roods, and Perches belonging to each Proprietor in the said open Fields, Meadows,

Surveyor's Oath.

Meadows, common Pastures, and inclosed Lands; and also the Number of Acres, Roods, and Perches of the said waste Grounds; and that I will lay such Survey before the Commissioners appointed to put in Execution an Act of Parliament "for Dividing and Inclosing the Open Fields, Meadows, Common Pastures, and Waste Grounds within the Townships of North Muskham, Holme, and Bathley, in the Parish of North Muskham, in the County of Nottingham," pursuant to the Directions of the said Act.

So help me G O D.

Which Oath it shall and may be lawful to and for any One or more of the said Commissioners to administer, and he or they is or are hereby impowered and required to administer the same accordingly.

Commissioners and Surveyors may enter Lands.

And it is hereby further Enacted, That the said Commissioners and the Surveyor or Surveyors appointed or to be appointed as herein before-mentioned, together with their and every of their Assistants, Servants, and Persons employed by them, shall have and they are hereby vested with full and free Power and Authority, at any Time or Times whatsoever, to enter into, view, examine, and value, survey and admeasure, for the Purposes of this Act, as well the Fields, Lands, and Grounds hereby directed to be divided and inclosed, as also the ancient inclosed Lands within the several Townships of *North Muskham, Holme, and Bathley*, in the Parish of *North Muskham* aforesaid.

Allotments to be made, &c.

And it is hereby further Enacted, That the said Commissioners and their Successors, or any Three or more of them, shall and may and they are hereby authorized and impowered in the First Place, after setting out of publick and private Roads, Ways, and Drains, and also a Piece or Parcel of Ground for the Purpose of getting Materials for the Repairs of the said Roads and Ways as herein after is mentioned, to allot and appoint unto and for the said *Lynford Caryl*, Prebendary of the Prebend of *North Muskham* aforesaid and his Successors, and the said *Thomas Hutton* and *John Hutton*, the Lessees of his said Glebe Lands and Improprate Tithes, in Trust for the said *Bryan Cooke*, and to the said *William Harding* and his Successors, Vicars of the several Medieties of *North Muskham* aforesaid, such Parcel or Parcels of Land (Quantity, Quality, and Situation considered) as shall, in the Judgment of the said Commissioners, or any Three or more of them, be equal in Value to and in full Satisfaction and Compensation for the Glebe Lands and Right of Common now belonging to the said Prebend and Vicarage respectively; and shall in the next Place allot and appoint unto and for the said Prebendary of the Prebend of *North Muskham* aforesaid and his Successors, and to his said Lessees, and to the said *Thomas Earl Fauconberg* and his Heirs, and to the said *William Harding* and his Successors, Improprators and Vicars of the several Medieties of *North Muskham* aforesaid, so much of the said open Fields, Meadows, common Pastures, and waste Grounds as shall (Quantity, Quality, and Situation considered) be equal to One Seventh Part, the Whole into Seven Parts equally to be divided, of all the Residue of the Lands lying within and being Part of the said open Fields, Meadows, common Pastures and waste Grounds, and also

also of all the present inclosed Lands within the said Townships and Parishes; subject to the Payment of Great and Small Tithes; the said Seventh Part to be divided between the said Prebendary of the Prebend of *North Muskham* and his Lessees, the said *Thomas Earl Fauconberg*, and the said Vicar, in Proportion to their several and respective Interests in the same, in such Manner as the said Commissioners and their Successors, or any Three or more of them, shall adjudge; which said Lands and Grounds so to be allotted to and for the said Prebendary and his Lessees, the said *Thomas Earl Fauconberg*, and to the said Vicar, shall be in Lieu of and in Recompence and Compensation for all Manner of Tithes, both Great and Small, and all Moduses and Compositions for Tithes whatsoever belonging to the said Prebendary, his Successors, Lessees, and Assigns, to the said *Thomas Earl Fauconberg* and his Heirs, and to the said Vicar and his Successors, or to any of them, arising, growing, or renewing within the said Townships of *North Muskham*, *Holme*, and *Batbley* in the Parish of *North Muskham* aforesaid (except and always reserving unto the said *William Harding* and his Successors, Vicars of the said several Medieties of the Parish of *North Muskham* aforesaid, the usual and accustomed Mortuaries, *Easter Offerings*, and Surplice Fees) and the said Lands and Grounds so to be allotted to the said *William Harding* and his Successors, Vicars of the several Medieties of *North Muskham* aforesaid, in Satisfaction of and Compensation for the Glebe Lands and Tithes belonging to the said Vicarage, shall be set out and allotted in Three several separate Allotments at the least.

Provided always, and be it Enacted, That if the said Commissioners or their Successors, or any Three or more of them, in the allotting and appointing such Seventh Part of all the said present inclosed Lands to be divided between the said Prebendary of the Prebend of *North Muskham* and his said Lessees, the said *Thomas Earl Fauconberg* and the said Vicar, in Manner herein before-directed, shall adjudge such Seventh Part of the said present inclosed Lands to be more than a sufficient Recompence and Compensation for the Tithes thereof, then and in that Case they the said Commissioners or their Successors, or any Three or more of them, shall and may and they are hereby authorized and required to order and direct such Recompence and Satisfaction to be made unto such Person or Persons who shall at the Time of such Allotment or Allotments, so to be made in lieu of Tithes as aforesaid, be intitled to or possessed of any of the said present inclosed Lands, subject to the Payment of Great and Small Tithes within the said Townships of *North Muskham*, *Holme*, and *Batbley*, or within any of them, as they the said Commissioners or their Successors, or any Three or more of them, shall adjudge to have given more than a sufficient Recompence and Satisfaction for such the Tithes of the said inclosed Lands, by the Lessees of the said Prebendary of the Prebend of *North Muskham* aforesaid, in Trust for the said *Bryan Cooke* as aforesaid, and the said *Thomas Earl Fauconberg*, and their Heirs, or by some of them, either out of the Lands to be allotted to them as aforesaid, or in such Manner as the said Commissioners and their Successors, or any Three or more of them, shall direct and appoint; any Thing herein contained to the contrary thereof notwithstanding.

Commissioners to adjust the Difference between a Seventh and Tenth Part to be given in Discharge of the Tithes of the present inclosed Lands.

Provided nevertheless, That nothing herein contained shall extend to empower the said Commissioners in making such Recompence or Satisfaction to give to the said Proprietors, or any of them, any greater Satisfaction than will make the Difference in Value between a Tenth Part of the said present inclosed Lands (so given in lieu of the said Tithes) instead of One Seventh Part thereof as aforesaid.

Allotment to
the Lord of
the Manor,
&c.

And it is hereby further Enacted, That the said Commissioners and their Successors, or any Three or more of them, shall and may and they are hereby authorized and empowered in the next Place to allot and appoint unto and for the said *Lynford Caryl*, Prebendary of the Prebend of *North Muskham* aforesaid and his Successors, and to the said *Thomas Hutton* and *John Hutton* his Lessees, in Trust for the said *Bryan Cooke*, such Parcel or Parcels of Land as shall (Quality, Quantity, and Situation considered) in the Judgment of the said Commissioners, or any Three or more of them, be equal in Value to One Sixteenth Part of the said waste Grounds after such Allotments shall be made as before directed, the said Allotment to be in full Compensation for the Right of such Lord of the said Manor and his Lessees in and to the Soil of all the waste Lands hereby intended to be divided and inclosed.

And whereas the Mayor and Aldermen of the Borough of *Newark upon Trent*, in the County of *Nottingham*, claim a Right to a Manor within the Parish of *North Muskham* aforesaid, and to the waste Lands within the said Manor as Lords thereof; **It is hereby further Enacted and Declared,** That the said Commissioners and their Successors, or any Three or more of them, shall and may and they are hereby authorized and directed to divide, set out, and allot unto and for the said Mayor and Aldermen and their Successors such Parcel of the Land so to be allotted to the said *Lynford Caryl* and his Successors, and to his said Lessees as aforesaid in Lieu of and as a Compensation for the Right to and Interest in the Soil of the waste Lands hereby intended to be divided and inclosed, as (Quantity, Quality, and Situation considered) shall in the Judgment of the said Commissioners or their Successors, or any Three or more of them, be equal in Value to One Fourth Part of the said Sixteenth Part of the several waste Lands so to be allotted to the said *Lynford Caryl* and his Successors, and to his said Lessees as aforesaid, in case they the said Mayor and Aldermen shall by due Course of Law establish their Title to the said Manor, and their Right to the Soil of the waste Lands within the said Manor, on or before the First Day of *January* One thousand Seven hundred and Seventy-four.

Persons entitled to inclose
Lands to pay
Satisfaction,
&c.

Provided always nevertheless, and it is hereby Enacted and Declared, That in case any Person or Persons shall, at the Time of such Allotment or Division to be made as aforesaid, be intitled to or possessed of any of the present inclosed Lands, subject and liable to the Payment of Tithes within the said Townships of *North Muskham*, *Holme*, and *Bathley*, or within any of them, and who shall not be intitled to or possessed of any Lands within the said open Fields, Meadows, common Pastures, or waste Grounds so intended to be inclosed as aforesaid, or to any Right of Common in, over, and upon the same in Manner herein before-directed, out of or in

in respect of which such Allotment can or may be made in Lieu of and as a Compensation for the Great and Small Tithes of such present inclosed Lands respectively, then such Satisfaction and Compensation for the Great and Small Tithes of such present inclosed Lands shall be made by and out of the Lands in the said open Fields, Meadows, common Pastures, or waste Grounds belonging to the said several other Proprietors, in such Manner as the said Commissioners, or any Three or more of them, shall direct and appoint; and such Person or Persons who shall be intitled to or possessed of any of such present inclosed Lands so subject and liable to the Payment of Tithes, shall pay or cause to be paid to such Person or Persons, and at such Time or Times as the said Commissioners, or any Three or more of them, shall direct and appoint, such Sum or Sums of Money as they the said Commissioners, or any Three or more of them, shall think equivalent to and a full Satisfaction and Compensation for One Seventh Part of the said present inclosed Lands so subject and liable to the Payment of Tithes; and that such Sum or Sums of Money so to be paid to such Person or Persons as aforesaid shall be applied towards the Payment of the Charges and Expences incident to and attending the obtaining of this Act, and of the several other necessary Expences which shall be incurred by the said Commissioners, or any of them, in the Execution thereof; and that from and immediately after the Execution of the Award of the said Commissioners of such Tenor or Purport as herein after is mentioned, all Right and Claim to the Great and Small Tithes of such present inclosed Lands subject and liable to the Payment of Tithes, and belonging to Persons not intitled to or possessed of any Lands within the said open Fields, Meadows, common Pastures, or waste Grounds, or to any Right of Common in, over, or upon the same, shall cease and be for ever extinguished.

And it is hereby further Enacted, That the Outermost or Ring Fences of the several Parcels of Land so to be allotted to the said *Lynford Caryl*, Prebendary of the Prebend of *North Muskharn* aforesaid, and his Successors, and to the said *Thomas Hutton* and *John Hutton*, Lessees of his Improprate Tithes, in Trust for the said *Bryan Cooke*, and to the said *Thomas Earl Fauconberg* and his Heirs, Improprators as aforesaid, in Lieu of and Compensation for their respective Shares of the Tithes of the said open Fields, Meadows, common Pastures, waste Grounds, and present inclosed Lands, and to the said *William Harding* and his Successors, Vicars of the several Medieties of *North Muskharn* as aforesaid, in Lieu of and Compensation for the Glebe Lands belonging to the said Vicarage, and his or their Proportion or Share of the Tithes of the said open Fields, Meadows, common Pastures, waste Grounds, and old Inclosures, shall be planted with young Quicksets, which shall be guarded on the One Side by good and substantial Oak Stoops and Treble Oak Rails, and a Three Feet Ditch, and on the other Side by the like good and substantial Oak Stoops and Double Oak Rails, and a Three Feet Ditch, with good and substantial Gates to be made where necessary in the said Fences: All which Fences shall be so planted and guarded, and all which Gates shall be so made and hung by and at the Expence of the Proprietors of the several tithable Lands and Grounds to be allotted by virtue of this Act, in such Proportion as the said Commissioners, or any Three or more of them, shall by their

Allotments
for Tithe to
be inclosed by
the other Proprietors.

their Award or Instrument herein after-mentioned, under their Hands and Seals, ascertain, direct, or appoint; and the several Fences of such Allotments shall for ever after the making thereof be maintained and supported by the said several and respective Persons to whom such Allotments shall be made as aforesaid, in Lieu of Tithes or otherwise, their Heirs or Successors, in such Manner as the said Commissioners, or any Three or more of them, shall by their Award or Instrument direct and appoint.

Remainder of
the Lands to
be allotted to
the Rest of the
Proprietors.

And it is hereby further Enacted, That the said Commissioners, or any Three or more of them (from and after the making the several Allotments herein directed to be first made as aforesaid) shall and may and they are hereby required and directed to allot, set out, and appoint such of the Lands and Grounds lying and being in the said open Fields, Meadows, common Pastures, and waste Grounds so intended to be inclosed as aforesaid, as shall not be set out for publick Roads, Ways, and Drains, or for getting Materials for the Repair of the said Roads and Ways, or allotted and appointed unto and for the said *Lynford Caryl*, Prebendary of the Prebend of *North Muskbam* aforesaid, and his Successors, and the said *Thomas Hutton* and *John Hutton* as Lessees of his said Glebe and Improprate Tithes, in Trust for the said *Bryan Cooke*, and the said *Thomas Earl Fauconberg* and his Heirs, and the said *William Harding* and his Successors, Improprators and Vicars of *North Muskbam* aforesaid, in Manner herein before-directed; and to, and for the said *Lynford Caryl*, Prebendary of the Prebend of *North Muskbam* aforesaid, and the said *Thomas Hutton* and *John Hutton*, his Lessees of the Manor of *North Muskbam* aforesaid, in Lieu of his and their Right and Interest in and to the Soil of the waste Grounds hereby intended to be divided and inclosed unto and among the said *Thomas Earl Fauconberg*, *Thomas Hutton* and *John Hutton*, in Trust for the said *Bryan Cooke*, and the several other Parties and Persons interested therein, in Proportion to their several and respective Shares, Interest, and Right of Common in, over, and upon the said open Fields, Meadows, common Pastures, and waste Grounds, by such Ways and Means as to the said Commissioners, or any Three or more of them, shall seem most just, reasonable, and expedient.

Leases at
Rack-rent to
be void.

And it is hereby further Enacted, That all and every Lease and Leases at Rack or extended Rent, which shall at the Time of the Execution of the said Award be subsisting of all or any Part or Parts of the said open Fields, Meadows, common Pastures, or present inclosed Lands within the said Townships of *North Muskbam*, *Holme*, and *Batbley*, or any of them, or of the Tithes of the same, or any Part thereof, and all other Agreements at Rack or extended Rent for any Time or Term therein, shall immediately upon such Allotments and Divisions being made, and such Award or Instrument being executed as aforesaid, or so soon thereafter as the said Commissioners, or any Three or more of them, shall by their said Award appoint, cease, determine, and be void, the respective Owners or Proprietors of such Part or Parts of the said open Fields, Meadows, common Pastures, and inclosed Lands, or of the Tithes of the same, or any Part thereof, who have made any such Lease or Leases, or Agreement or Agreements, making such Satisfaction to his, her, or their respective Lessee

Lessee or Lessees, Tenant or Tenants, as the said Commissioners, or any Three or more of them, shall ascertain as reasonable to be paid to such Lessee or Lessees, Tenant or Tenants, on account thereof, or as an Equivalent for the same.

Provided always, That nothing herein contained shall be deemed or construed to extend to make void any Lease or Leases of any Part of the Lands or Estates hereby intended to be inclosed, or of the present inclosed Lands, or the Tithes of the same, or any Part thereof, upon making or Renewal whereof any Fine or Fines have been paid.

Provided always, That the said Commissioners in making such Allotments shall have due Regard to the Quality, as well as Quantity and Situation of the Lands belonging to each Proprietor, and the Tithes payable for the same; and also the Right of Common and other Property belonging to each Person interested, and the Quality, Quantity, and Situation of the Lands and Grounds to be allotted in Lieu thereof.

Commissioners to regard Quality.

And be it further Enacted, by the Authority aforesaid, That if any Difference or Dispute shall arise between the Parties interested in the said Division, or any of them, touching or concerning their respective Shares, Rights, and Interests, or the respective Shares and Proportions which they, or any of them ought to have upon such Division, or between any of the said Proprietors, or his, her, or their Lessees or Tenants respectively, touching the Loss which such Lessees or Tenants may hereafter sustain by reason of the said Inclosure, and the determining such Leases as aforesaid, it shall and may be lawful for the said Commissioners, or any Three or more of them, and they are hereby empowered and required, by Examination of Witnesses upon Oath (which Oath the said Commissioners, or any One or more of them, is or are hereby empowered to administer) and upon such other proper Enquiry, Evidence, and Proof as shall be laid before them, to hear and determine the same; and such Determination shall be binding and conclusive to all Parties.

Commissioners to determine Differences.

And be it further Enacted, by the Authority aforesaid, That the said Commissioners, or any Three or more of them, shall and may set out, appoint, and make such publick Highways, and also such Drift-ways, Horse-ways, or Foot-ways in, over, through, and upon the several Lands and Grounds to be inclosed by virtue of this Act, and also over the present inclosed Lands, as shall be necessary and convenient, as well for or in respect of the Lands and Grounds hereby intended to be divided and inclosed, as for or in respect of the said present Inclosures in the said Townships of *North Muskham*, *Holme*, and *Bathley*, or any of them, so as that the present Turnpike Road leading through the said Parish be not altered thereby; and also shall and may set out, appoint, and make such Ditches, Fences, Banks, Drains, Shuttles, Bridges, Gates, and Stiles in, over, through, and upon the said several Lands and Grounds intended to be inclosed by virtue of this Act, and in, over, through, and upon the said present inclosed Lands, as they the said Commissioners, or any Three or more of them, shall think convenient, so that such of the said publick Highways as shall be set out

For setting out Roads.

as Ways for Carriages, shall be Sixty Feet broad at least between the Ditches or Fences ; and such of the said Ways as shall be set out for Drift-ways, or for Horse-ways, or for Foot-ways respectively, shall be of such respective Widths within the Ditches or Fences thereof, as the said Commissioners, or any Three or more of them, shall direct or appoint ; which publick Highways shall at all Times after the setting out and Appointment thereof as aforesaid, for ever be repaired and kept in Repair in such Manner as publick Highways are by Law directed to be repaired ; and that such Drift-ways, Horse-ways, or Foot-ways, Ditches, Fences, Banks, Drains, Shuttles, Bridges, Gates, and Stiles so to be set out, appointed, and made as aforesaid, shall be repaired and kept in Repair by such Person and Persons respectively, his, her, and their respective Heirs, Successors, and Assigns, and in such Manner as the said Commissioners, or any Three or more of them, shall by their Award or Instrument in Writing hereafter-mentioned direct and appoint.

Persons to use
no Roads but
those that are
set out.

And it is hereby Declared, That after the making such publick Highways, Drift-ways, Horse-ways, Foot-ways, and such private Roads and Ways so to be set out, appointed, and made as aforesaid, it shall not be lawful for any Person or Persons to use any other Roads or Ways, either publick or private, over or through the said new inclosed Lands or present Inclosures, either on Foot, or with Horses, Cattle, or Carriages, and that all the former Roads and Ways in, over, through, and upon the several Lands and Grounds hereby directed to be inclosed, which shall not be set out and appointed as Roads or Ways by the said Award so to be made as aforesaid, shall be deemed Part of the Lands to be inclosed by virtue of this Act, and shall be divided and allotted accordingly as Part of such Lands.

Roads not be
stocked for
10 Years,
&c.

Provided nevertheless, and it is hereby Enacted and Declared, That it shall not be lawful for any Person or Persons to graze or keep any Sort of Cattle whatsoever in or upon any of the Roads or Ways to be set out by virtue of this Act which shall be fenced on both Sides, for the Space of Ten Years next after the Making and Executing of the said Award or Instrument, and that during the said Term of Ten Years, the Herbage or Produce of the said Roads or Ways which shall be fenced on both Sides, shall be publicly let to the best Bidder or Bidders for the Purposes of mowing only, by the Surveyor or Surveyors of the Highways of the said Parish of *North Muskham* for the Time being, and that from and after the Expiration of the said Term of Ten Years, the said Surveyor or Surveyors shall let to the best Bidder or Bidders the said Roads or Ways to be eaten or grazed by Cattle ; the Rents and Profits in both Cases to be applied towards the Reparation of the several Highways within the Townships of *North Muskham*, *Holme*, and *Batkley* in the Parish of *North Muskham* aforesaid, and to be accounted for by the said Surveyors of the Highways annually on the First Tuesday in October, at a Vestry to be called for that Purpose, in the Parish Church of *North Muskham* aforesaid.

Land to be
set out for
getting
Gravel.

And be it further Enacted, That the said Commissioners, or any Three of them, shall and may and they are hereby authorized and required, after letting

Setting out the Roads, Ways, and Drains as aforesaid, and before the making any other Allotment, to allot and set out unto the Surveyors of the Highways of the said Townships within the said Parish respectively, and their Successors, such Parcel or Parcels of Land, not exceeding in the Whole Four Acres, as they the said Commissioners, or any Three of them, shall think most proper for the digging for and getting of Gravel and other Materials for the Repairs of the Highways, publick and private Roads within the said Townships respectively, and also to order and direct in and by the said Award in what Manner the Herbage or Produce of such Parcel or Parcels of Land shall be appropriated.

And whereas Part of the Lands hereby intended to be divided and inclosed, lying within the Township of *Holme*, is common Pasture adjoining upon the River *Trent*, and is liable to be wasted or washed away by the Floods of the said River, and it is necessary that the Banks thereof should be properly repaired and kept in Repair; **Be it therefore further Enacted**, That the said Commissioners, or any Three or more of them, shall have full Power and Authority, and they are thereby authorized and required, before the said common Pasture is divided and allotted, to cause such Banks of the said River *Trent* to be repaired and amended in such Manner as they shall think most proper and convenient for preventing the said Lands adjoining to the said River from being wasted or washed away by the Floods thereof, and the Charges and Expences of repairing such Banks shall be paid and defrayed by the several Proprietors interested in the said Lands so liable to be wasted or washed away, in Proportion to their several Properties and Interests therein (except the said *Lynford Caryl*, Prebendary of the Prebend of *North Muskham* aforesaid, and the said *Thomas Hutton* and *John Hutton* his Lessees, in Trust as aforesaid, and the said *Thomas Earl Fauconberg*, and the said *William Harding*, Impropiator and Vicar of the several Medieties of *North Muskham* aforesaid, for and on account of the several Lands to be allotted to them respectively in Lieu of Tithes as aforesaid) to be settled by the said Commissioners, or any Three or more of them; and the same shall from time to time and at all Times thereafter be maintained and kept in Repair by the Person or Persons to whom such Land shall be allotted.

Banks of the River Trent to be repaired.

And be it further Enacted, by the Authority aforesaid, That within the Space of Six Calendar Months next after the Division and Allotments of the said open Fields, Meadows, common Pastures, and waste Grounds shall be completed and finished, or so soon thereafter as conveniently may be, the said Commissioners, or any Three or more of them, shall form and draw up an Award or Instrument in Writing, which shall express the Quantity and Contents in Statute Measure of the Acres, Roods, and Perches contained in the said open Fields, Meadows, common Pastures, and waste Grounds so intended to be inclosed as aforesaid, and the Quantity and Contents of each and every Part and Parcel thereof assigned and allotted to each of the Parties intitled to Lands, Tithes, Common Right, or any other Property within the same, and a Description of the Situation, Buttals, and Boundaries of such Parcels and Allotments respectively; and proper Orders and Directions for and concerning the laying out and making the publick Highways, and the Breadth thereof, and for and concerning the laying

For making an Award.

laying out, making, maintaining, cleansing, and keeping in Repair the Drift-ways, Horse-ways, and Foot-ways, and all other private Roads and Ways, and all Ditches, Fences, Banks, Drains, Shuttles, Bridges, Gates, and Stiles in, upon, and over the said intended inclosed Lands and present Inclosures; and also all such Orders, Regulations, and Determinations as are in or by this Act mentioned, directed, required, or authorized to be established and made concerning the same, and such other Orders and Regulations as shall be necessary and proper, conformable to the true Tenor of this Act, for the more easy, convenient, and effectual Execution thereof; and for preventing all Difficulties and Disputes in Relation to the Matters herein contained; and shall also cause Two or more Maps or Plans of the said Townships and Parish to be fairly drawn upon Vellum, which shall be signed by them the said Commissioners, or any Three or more of them; and the said Award or Instrument shall be fairly engrossed upon Parchment, and signed and sealed by the said Commissioners, or any Three or more of them; which said Award shall, within the Space of Six Calendar Months next after such Signing and Sealing, together with the Commissioners and Surveyors Oaths aforesaid, and with One of the aforesaid Maps or Plans of the said Townships (which shall be thereunto annexed) be inrolled in One of his Majesty's Courts of Record at *Westminster*; and the said Award, with One other of the aforesaid Maps or Plans thereto also annexed, shall be put into and kept in the Box or Chest wherein the Papers and Books relating to the said Parish of *North Muskham* are usually kept, to the end Recourse may be had to the same by any Person or Persons interested in the said Division and Inclosure; which said Award or Instrument, and the said Oaths so to be inrolled, or a true Copy of such Inrolment attested by the proper Officer for the Time being of the Court where the said Inrolment shall be made, shall from time to time be admitted in all Courts whatsoever as legal Evidence of the same; which Copy the proper Officer for the Time being of the Court where such Inrolment shall be made is hereby required to make and deliver to any Person or Persons requiring the same: And that the several Allotments and Divisions, and all Orders, Directions, Regulations, and Determinations so to be made as aforesaid in and by such Award or Instrument, shall be binding and conclusive unto and upon all Persons intitled to or claiming any Lands, Tithes, Common Right, or any other Property whatsoever in the said Townships of *North Muskham*, *Holme*, and *Batbley*, or any of them; and that the several Allotments to be made as aforesaid to the respective Proprietors and Persons interested as aforesaid shall be in full Bar of and Compensation for all and all Manner of Tithes, Lands, Interest, Common Right, and Property whatsoever in the said open Fields, Meadows, common Pastures, and waste Grounds, and that from and immediately after the Execution of the said Award or Instrument all Right and Claim of, in, and unto all and any Manner of Great and Small Tithes, as well in, upon, and over the present inclosed Lands, as in, upon, and over the said open Fields, Meadows, common Pastures, and waste Grounds within the said Townships of *North Muskham*, *Holme*, and *Batbley*, (except as herein before-mentioned) and all Right of Common upon the Lands hereby intended to be inclosed, shall cease and be for ever extinguished.

And

And be it further Enacted, That the said Commissioners shall in their said Award specify and declare what Parts of the said Lands and waste Grounds shall belong to each Township respectively, and that from and after the Execution of the said Award the respective Shares or Parts of the said Lands and waste Grounds so specified and declared by the said Commissioners in and by their said Award to belong to each Township, shall from thenceforth be deemed and taken to all Intents and Purposes to belong to such Township to which such Shares or Parts shall in the said Award be specified and declared to belong.

And be it further Enacted, by the Authority aforesaid, That within the Space of Twelve Calendar Months next after the Execution of the said Award or Instrument, the several Lands thereby allotted shall be inclosed, hedged, ditched, or fenced, and such Inclosures, Hedges, Ditches, and Fences shall at all Times thereafter be repaired and maintained by such Person or Persons, and in such Manner as the said Commissioners, or any Three or more of them, shall in such their Award or Instrument order and direct.

Time for inclosing Lands.

Provided nevertheless, That convenient Openings shall be left in the said Fences and Inclosures for the Space of Six Calendar Months next ensuing the Execution of the said Award or Instrument for the Passage of Cattle, Carts, and Carriages through the same, unless the several Parties interested therein shall agree that the same shall be sooner made up and inclosed.

Gaps to be left.

Provided nevertheless, and it is hereby Declared and Enacted, That in case any Lands or Grounds upon which any Trees, Underwoods, Thorns, Hedges, Bushes, or Shrubs, shall at the Time of passing this Act be standing or growing, shall be allotted to any Person or Persons, other than such as was or were the Proprietor or Proprietors thereof at and immediately before such Allotments are made, then and in such Case all such Trees, Underwoods, Thorns, Hedges, Bushes, or Shrubs, shall be left for the Benefit of such Person and Persons to whom the Lands or Grounds whereon the same shall be standing or growing shall be allotted, he, she, or they making such Allowance or Consideration to the former Owners and Proprietors of such Trees, Underwoods, Thorns, Hedges, Bushes, or Shrubs respectively, as the said Commissioners, or any Three or more of them, shall by any Writing under their Hands and Seals, or by their said Award or Instrument in that Behalf, order and appoint.

Trees, Hedges, &c. to be paid for.

And it is hereby further Enacted, That if the several Lands and Grounds hereby directed to be divided and inclosed, shall not be set out and allotted as aforesaid on or before the First Day of February One thousand Seven hundred and Seventy-Two, then and in such Case it shall and may be lawful to and for the several Owners and Proprietors thereof, his, her, and their Lessees and Tenants respectively, to plow his, her, and their several Tillage Lands and Grounds in the said Townships of *North Muskham, Holme, and Batbley*, or any of them, and to reap the Crops of Wheat or Rye which shall be sown at the latter End of the Year One thousand Seven hundred and Seventy-one.

If Allotments shall not be made before the 1st Day of February, 1772.

Provided always, That no other Lands but such as have been used and accustomed to be sown with Wheat or any other Grain shall be sown with such Grain, and that only at such Time and in such Manner as is now used, and as shall be according to the due and usual Course of Husbandry in the said Townships of *North Muskham, Holme, and Bathley*, and not otherwise.

If Allotments
be made be-
fore the 1st
Day of Feb.
1772,
Owners of
Allotments to
make Satis-
faction, &c.

And it is hereby further Enacted, That if the Lands and Grounds hereby directed to be divided and inclosed as aforesaid, shall be set out and allotted as aforesaid on or before the said First Day of *February* One thousand Seven hundred and Seventy-two, and any of the said Tillage Lands or Grounds then sown with Wheat or Rye shall fall or be allotted to any other Person or Persons, other than the then Owner or Occupier thereof respectively, it shall and may be lawful to and for the said Commissioners, or any Three or more of them, and they are hereby authorized and empowered to direct such Satisfaction to be made to the then Owner or Owners, Occupier or Occupiers thereof respectively, as in their Discretion and Judgment shall be reasonable and just, to be paid by the Person or Persons to whom any such Lands and Grounds so sown with Wheat or Rye shall fall or be allotted respectively; and on Non-payment thereof within such Time and in such Manner as the said Commissioners, or any Three or more of them, shall direct and appoint, it shall and may be lawful to and for the Person and Persons to whom such Satisfaction shall be directed to be made as aforesaid, and his, her, and their Servants or Assigns, to enter into and upon, and to cut, reap, take, and carry away from off such Lands and Grounds respectively the Wheat or Rye so sown, and to convert and dispose of the same to his, her, and their own Use and Uses; any Thing herein contained to the contrary thereof, notwithstanding.

Directions for
tilling the
arable Lands,
&c.

And be it further Enacted, That the Tillage Parts of such of the open Fields as are hereby directed to be inclosed, as shall happen to be the Fallow Fields the Year wherein such Divisions and Allotments shall be made as aforesaid, shall be plowed in an Husband-like Manner Three several Times in the Year, betwixt the First Day of *April* and the First Day of *November*, by the then Owners or Occupiers thereof; and that such Persons who shall then be Owners or Occupiers thereof shall also stub the Thistles twice in such Year (that is to say) Once on or before the Twenty-fourth Day of *June*, and Once in the Month of *August*; and that every Owner or Occupier who shall neglect or refuse so to plow his or her Parts of the said Fields, or to stub the Thistles in Manner aforesaid, shall forfeit and pay to the new Proprietor or Proprietors respectively by virtue of this Act of such Parts as shall not be so plowed or stubbed as aforesaid Six Shillings and Eight Pence an Acre for every Tilt, Plowing, or Stubbing omitted, and so in Proportion for every less Quantity than an Acre, to be recovered by Application to the next General Quarter-Sessions which shall be held for the said County of *Nottingham* within Six Calendar Months next after the Cause of Complaint shall have arisen; and the Justices in their said General Quarter-Sessions are hereby authorized and empowered to hear and finally determine, and to cause the Money that shall appear to be due to any Person or Persons complaining on the Account aforesaid to be levied by Distress and

and Sale of the Offender or Offenders Goods and Chattels, with reasonable Costs, rendering the Overplus (if any) to the Owner or Owners of such Goods and Chattels, after deducting the Costs and Charges of making such Distress and Sale; and also that if any of the said Proprietors shall not have as much Tillage Land allotted to him, her, or them in that Field by virtue of this Act, as he, she, or they shall plow therein as aforesaid, he, she, or they shall have and receive respectively from the Proprietor or Proprietors of the new Allotment or Allotments respectively where such Lands shall lie, such Allowance and Satisfaction for such his, her, or their Plowing as aforesaid, as the said Commissioners, or any Three or more of them, shall think reasonable and direct; and that in Default of Payment thereof at such Time and in such Manner as the said Commissioners, or any Three or more of them, shall direct and appoint, such Allowance and Satisfaction shall be recovered as aforesaid, with Costs as aforesaid.

Provided always nevertheless, and it is hereby further Enacted, That no Person or Persons shall plow, break up, or convert into Tillage any of the Green-swarth Lands, Balks, Hades, Furrows, or Grass-ground in the said open Fields, or any of them, and that no Part of the Lands which have been used as Meadow or Pasture for Two Years preceding the First Day of *January* One thousand Seven hundred and Seventy-one, shall be plowed, broke up, or converted into Tillage before the Divisions and Allotments shall be made as aforesaid.

Not to plow up the Green-swarth.

Provided always, That the Proprietors of the said new Inclosures shall have full Power and Liberty, for the Term of Ten Years from the Time of making such Inclosures, to erect or set up any Gate or Gates across any Part or Parts of the Roads to be made through or against his, her, or their Lands, except across the said Turnpike Road, for keeping out Sheep and other Cattle, and to prevent their destroying any Banks, Woods, Plants, Quicksets, or Fences, which shall be made for inclosing any Part of the said Lands, and at or before the Expiration of such Term shall and may remove and take away such Gate or Gates.

For setting up Gates to guard Quicksets.

And be it further Enacted, That no Lambs or Sheep shall be depastured or kept in any of the said intended new Inclosures during the Space of Seven Years from the Execution of the said Award or Instrument, unless the Persons respectively so depasturing or keeping Lambs or Sheep do at their own Expence effectually guard and fence their Neighbours Quicksets adjoining to such Inclosures respectively in which Lambs or Sheep shall be depastured or kept as aforesaid, so as to prevent any Damage or Injury from being done to such Fence or Quicksets by any such Lambs or Sheep; and that the Persons respectively depasturing or keeping Lambs or Sheep as aforesaid, and neglecting or refusing to guard their Neighbours Quicksets as aforesaid, shall be liable to pay all such Damages as shall be sustained by any Person or Persons whatsoever, by reason or on account of such depasturing and keeping Lambs or Sheep as aforesaid, to be recovered in the Manner herein before prescribed for the Recovery of Six Shillings

To fence against Sheep.

Shillings and Eight Pence an Acre for not plowing and stubbing as herein before mentioned.

Not to re-
voke Wills,
&c.

Provided also, and it is hereby further Enacted, That nothing in this Act contained shall revoke, make void, alter, annul, or any way affect any Settlement, Deed or Will whatsoever, or prejudice any Person or Persons having any Right or Claim of Dower, Jointure, Portion, Debt, Rent, Incumbrance, or other Demand, out of, upon, or affecting any Lands so intended to be inclosed as aforesaid, or any of the Messuages, Cottages, Tenements, or present inclosed Lands to be exchanged pursuant to this Act, or any Part or Parcel thereof (other than and except such Leases or Agreements at Rack-rent as aforesaid) but that the Lands to be allotted, and the Messuages, Cottages, Tenements, or present inclosed Lands to be exchanged in pursuance of this Act, shall, immediately after the making such Division and Allotments, and the Execution of the said Award, go, remain, and enure, and be held and enjoyed, and the several Proprietors to whom the same shall be allotted, and with whom the same shall be exchanged, shall, from and immediately after the Execution of the said Award, stand and be seised and possessed thereof respectively to such and the same Uses, and upon such and the same Trusts, and subject to such and the same Wills, Settlements, Powers, Provisoos, Limitations, Remainders, Trusts, Charges, Rents, Incumbrances, and Demands whatsoever (except as aforesaid) as he, she, or they respectively should and would have stood seised or possessed of and in his, her, or their Lands, Interest, or Property in the said open Fields, Meadows, common Pastures, and waste Grounds, or in the said Messuages, Cottages, Tenements, or present inclosed Lands (in respect or in Lieu of which such Allotments or Exchanges shall be respectively made) in case this Act had not been made; any Thing herein contained to the contrary notwithstanding.

The Vicar to
lease for
Years.

And be it further Enacted, That it shall and may be lawful to and for the said *William Harding*, by and with the Consent and Approbation of the Archbishop of *York*, and of the Patron of the said Vicarage for the Time being, to grant any Lease or Leases to any Person or Persons whatsoever of the Land and Ground to be allotted to the said *William Harding* and his Successors in Right of the said Vicarage by virtue of this Act, or of any Part or Parts thereof, for any Term or Number of Years, not exceeding Twenty-one Years, so that no Fine or Fines or other Premium be taken for any such Lease or Leases, and so as that the same shall commence within Two Years next after the Execution of the said Award or Instrument, and so as that the Rent or Rents thereby to be reserved shall be made payable to the Vicar of the said Vicarage for the Time being, and his or their Successors Quarterly, and so as the Lessee or Lessees in such Leases to be named do execute a Counterpart or Counterparts of such Lease or Leases, and the usual Powers of Re-entry for Non-payment of such Rent or Rents, and such other necessary Clauses be contained therein as is usual in Cases of the like Nature, and so as the Lessee or Lessees therein to be named shall not be dispunishable for Waste; any Law, Usage, or Custom to the contrary thereof in any wise notwithstanding.

And

And be it further Enacted, by the Authority aforesaid, That the said Commissioners, or any Three or more of them, shall and they are hereby required to give or cause publick Notice to be given in the Parish Church of *North Muskham* aforesaid, upon some *Sunday* immediately after Divine Service, and also by Writing affixed on One of the Doors of the said Church, of the Time and Place of their First and every subsequent Meeting for the Execution of this Act, at least Ten Days before any such Meeting shall be held (Meetings by Adjournment only excepted) and shall then and from time to time afterwards adjourn themselves to meet at such Place or Places as they the said Commissioners, or any Three or more of them, shall from time to time think most convenient for putting this Act in Execution.

Notice to be given of the Meetings of Commissioners.

And be it further Enacted, by the Authority aforesaid, That if any One or more of the said Commissioners appointed by this Act, or who shall have been elected in the Manner herein after-mentioned, shall before the Execution of the said Award or Instrument die or refuse to act, the surviving or remaining Commissioner or Commissioners, or the major Part of them (if more than Two) shall from time to time, by Writing under his or their Hand and Seal or Hands and Seals, within Three Calendar Months next after such Death or Refusal shall happen or be known, elect and appoint One other Person, not interested in the said intended Inclosure or present inclosed Lands, as a Commissioner for putting this Act in Execution, instead of any Commissioner so dying or refusing to act; and every Commissioner so to be appointed, after having taken the Oath herein before appointed to be taken by a Commissioner acting in the Execution of this Act, and not before, shall have the like Authority to act in the Execution of this Act, as the Commissioner in whose Place he shall succeed was vested with; which said Writing, and also the Oath so taken and subscribed by such Commissioner so to be elected as aforesaid, shall be inrolled where the Award or Instrument in Writing, to be executed by the said Commissioners, shall in pursuance of this Act be inrolled as aforesaid; and the same or a true Copy of such Inrolment shall be admitted in all Courts whatsoever as legal Evidence of the same.

For electing new Commissioners.

Provided nevertheless, That Notice be given in the Parish Church of *North Muskham* aforesaid, on a *Sunday* immediately after Divine Service, and also in Writing affixed on One of the Doors of the said Church, of the Time and Place of Meeting to elect and appoint such Commissioner, at least Ten Days before every such Meeting.

Notice of such Election to be given.

And be it further Enacted, by the Authority aforesaid, That for the better Accommodation of the several Proprietors of Lands and Tenements within the said Townships of *North Muskham*, *Holme*, and *Batley*, or any of them, it shall and may be lawful to and for the said Commissioners and their Successors, or any Three or more of them, and they are hereby authorized and impowered, by and with the Consent of any such Proprietors, or of the Guardians, Committees, Husbands, Trustees, or Attornies, or Persons acting as Guardians, Committees, Trustees, or Attornies for any of the said Proprietors, being an Infant, Ideot, Lunatick, Feme-covert, or

Exchanges may be made.

E

beyond

beyond the Seas, or otherwise incapable by Law, testified in Writing under their Hands, to allot all or any of the Messuages, Cottages, Tenements, ancient Inclosures, or present inclosed Lands in or upon which there is no Right of Common, or any other the Lands and Grounds within the Fields and Townships of *North Muskham*, *Holme*, and *Batbley* aforesaid, or any of them, of any Person or Persons in Exchange for any other Messuages, Cottages, Tenements, ancient Inclosures, or present inclosed Lands, or other Lands and Grounds within the said Fields and Townships, or any of them, of any other Person or Persons to whom such Messuages, Cottages, Tenements, ancient Inclosures, or present inclosed Lands, and other Lands and Grounds, shall be so allotted in Exchange, and such Exchanges so made by and with such Consent as aforesaid, testified in the Award herein before directed to be made, shall be good, valid, and effectual in the Law to all Intents and Purposes whatsoever.

Limitation of
Time for ac-
cepting Al-
lotments.

And be it further Enacted, by the Authority aforesaid, That all and every Person or Persons intitled to any Allotment or Allotments to be made as aforesaid, shall and is and are hereby required to accept such Allotment or Allotments within the Space of Twelve Calendar Months after the Execution of the said Award or Instrument, and publick Notice given in the Parish Church of *North Muskham* aforesaid, on a *Sunday* immediately after Divine Service, and also Notice in Writing affixed on One of the Doors of the said Church for that Purpose, signed by the said Commissioners, or any Three or more of them; which Notice the said Commissioners, or any Three or more of them, are hereby required to cause to be so published and given; and every Person or Persons who shall neglect or refuse to accept of his, her, or their respective Allotment or Allotments within the Time herein before limited, shall be totally excluded from having or receiving any Benefit or Advantage by this present Act, save upon the Terms herein expressed, and shall also be excluded from any Estate or Right of Common in any of the Lands or Grounds to be allotted to any other Person or Persons as aforesaid.

Allowing
Trustees, &c.
of incapacitated Persons
to accept.

Provided always, and be it further Enacted, That the Guardians, Committees, Husbands, Trustees, or Attornies, or Persons acting as Guardians, Committees, Trustees, or Attornies for any Person being an Infant, Ideot, Lunatick, Feme-covert, or beyond the Seas, or otherwise incapable by Law to accept any such Allotment, shall be and they are hereby enabled and required to accept thereof for the Use of every Person so incapacitated, and such Acceptance shall be as valid and effectual, as if such Person respectively was capable of acting for himself or herself, and had in Person made such Acceptance; any Thing herein contained to the contrary in any-wise notwithstanding.

Provided nevertheless, That the Non-claim or Non-acceptance of any Guardian, Husband, Trustee, Committee, or Attorney shall not exclude or prejudice the Claim or Acceptance of any Infant, Feme-covert, or any other Person under such Disability or Incapacity as aforesaid, who shall claim or accept within One Year after such Disability or Incapacity shall be removed, or of any Person or Persons intitled as Heir, or in Remainder or Reversion

Reversion after the Death of any Person dying under such Disability or Incapacity, who shall claim or accept within One Year after his, her, or their Right, Title, or Interest shall have descended, vested, or accrued.

And whereas some Parts of the Lands, Grounds, and other Property intended to be divided and inclosed by virtue of this Act, or which may be exchanged as aforesaid, are Leasehold, and other Parts thereof are Freehold, Be it therefore Enacted, by the Authority aforesaid, That the said Commissioners, or any Three or more of them, shall in the said Award or Instrument set forth and distinguish the respective Tenures by which the several Allotments and Exchanges to be made as aforesaid are to be held and enjoyed, and that the several Lands and Grounds which shall be allotted to or received in Exchange for or in Lieu of Freehold Lands, shall from the making and executing of the said Award or Instrument be deemed Freehold Lands, and shall from thenceforth be held of the Lords of the Fee under the same Rents and by the same Services as the Freehold Lands or other Property in Lieu of which they were so allotted or received in Exchange were before that Time held and enjoyed, and the Lands and Grounds which shall be allotted or received in Exchange for and in Lieu of Leasehold Lands, Grounds, or other Property, shall be in like Manner deemed Leasehold, and shall be held under the same Rents and Covenants as the Lands or other Property in Lieu whereof they were so respectively allotted or received in Exchange were held and enjoyed, and the Reversion thereof shall be vested in the same Lessors respectively, as the Reversion of such other Lands, Grounds, or Property were vested before the making of this Act; any Law, Usage, or Custom to the contrary notwithstanding.

Lands allotted or exchanged to be of the same Tenure as the Lands for which such Allotment or Exchanges were made.

And be it further Enacted, by the Authority aforesaid, That all Quit-rents or Chief-rents issuing out of any Lands or Grounds hereby intended to be inclosed, and now due and payable, or hereafter to become due and payable to the Lords of the Manor of *North Muskham* aforesaid for the Time being, or to any other Person or Persons, shall, after the Execution of the Award or Instrument before-mentioned, issue and be payable out of and be charged upon such Lands and Grounds respectively, as shall by virtue of this Act be allotted to any Proprietor or Proprietors in Lieu of the Lands and Grounds now charged with such Rents, and that from thenceforth their former Lands and Grounds shall be discharged from the said Rents and the Payment thereof; and the said Lords and other Person or Persons shall and may have the like Remedy and Remedies for the Recovery of every such Rent and Rents, and the Arrears thereof, in and upon and in respect of such Lands and Grounds so to be allotted as aforesaid, as they or any of them had or might have had in and upon and in respect of such former Lands and Grounds in case this Act had not been made.

Saving of Quit-rents.

And be it further Enacted, by the Authority aforesaid, That the reasonable Charges and Expences incident to and attending the obtaining of this Act, and of making of the said Survey, and of preparing and inrolling the said Award or Instrument, with a Map of the said Townships annexed, and of fencing and inclosing the several Allotments to be made to the said *Lynford Caryl*, Prebendary of the Prebend of *North Muskham* aforesaid, and the

For defraying the Expences of the Act.

the said *Thomas Hutton* and *John Hutton* his Lessees, in Trust for the said *Bryan Cooke*, and the said *Thomas Earl Fauconberg*, as Impropiators as aforesaid, in respect of their Tithes, and the said *William Harding*, as Vicar as aforesaid, in respect of his Glebe or Tithes, in the Manner herein before directed, and of making the several publick Highways, Drift-ways, Horse-ways, and Foot-ways, and private Roads and Ways, Ditches, Fences, Banks, Drains, Shuttles, Bridges, Gates, and Stiles, except the Repairs of the Trent Banks as aforesaid, and of the said Commissioners, and all other necessary Expences incurred or to be incurred by them or any of them in the Execution of this Act, shall be defrayed by the said *Bryan Cooke* and *Thomas Earl Fauconberg* in respect of all their Property, except Tithes as aforesaid, and by the several and respective Lessee or Lessees of any Part of the Lands or Estates hereby intended to be inclosed, upon the Making or Renewal of the respective Leases whereof any Fine or Fines have been paid (which Leases are not made void by this Act) and by the several other Persons to whom Allotments shall be made by virtue of this Act, in such Proportion as shall be settled and adjusted by the said Commissioners, or any Three or more of them.

Tenants for
Life may
raise Money
for paying
Expence.

And whereas several of the Owners and Proprietors of the said Allotments or present inclosed Lands may have Occasion to borrow Money to defray their respective Proportions of the Charges and Expences incident to and attending such Inclosure and Division, and other Expences in the Obtaining and Execution of this Act, and cannot, by reason of their being Tenant or Tenants for Life or Lives thereof only, or of some Settlement or Settlements already made, or other Impediments or Incumbrances respectively affecting such Allotments or present inclosed Lands, or some Disability in the Person or Persons to whom such Allotment or Allotments shall be made, make an effectual Security thereof for the Money that may be lent for that Purpose; **Be it therefore further Enacted**, by the Authority aforesaid, That it shall and may be lawful to and for the Husbands, Guardians, Trustees, Committees, or Attornies of any of the said Owners and Proprietors being under Coverture, Minors, Ideots, Lunaticks, or beyond the Seas respectively, and to and for the several and respective Lessee or Lessees of any Part of the Lands or Estates hereby intended to be inclosed, upon the Making or Renewal of the respective Leases whereof any Fine or Fines have been paid, and to and for any of the said Proprietors, being Tenants in Tail, or Tenants for Life or Lives only, and to and for any Person or Persons seized or possessed of any of the said present inclosed Lands, or any of the said Lands or Hereditaments intended to be inclosed, for any charitable Uses, or upon any Trust, by and with the Consent and Approbation of the said Commissioners and their Successors, or any Three or more of them, signified by Writing under their Hands and Seals, from time to time to charge the Lands and Grounds to be allotted to such Owners and Proprietors respectively by virtue of this Act; and also the present inclosed Grounds in respect of which such Allotments are to be made in Discharge of Tithes as aforesaid, or which are to be discharged of the Payment

ment of Tithes in Manner herein before-directed, with any Sum or Sums of Money for the Purposes herein before-mentioned, not exceeding Forty Shillings for every Acre of the said Lands and Grounds; and for securing the Repayment of the said Sum or Sums of Money, with Interest, to grant, mortgage, lease, or demise the Lands and Grounds so to be charged unto such Person or Persons as shall advance such Money respectively, for any Term or Number of Years, so as such Grant or Demise be made with a Proviso or Condition to cease and be void, or with an express Trust to be surrendered when such Sum or Sums of Money, with the Interest thereof, shall be paid, every such Tenant or Tenants for Life or Lives keeping down the Interest of the principal Money so to be borrowed, and so as no Person or Persons in Reversion or Remainder be liable unto or chargeable with the Payment of more than One Year's Interest for such principal Money at the Death of such Tenant or Tenants for Life or Lives respectively.

And for securing the Repayment may mortgage their Estates.

Provided always, and be it Enacted, That it shall and may be lawful to and for every Person or Persons seised or possessed as Trustee or Trustees only for any charitable or other publick Uses, and he and they are hereby required to apply the Surplus of the annual Rents of their Trust Lands, when the same shall be inclosed, and shall exceed the present annual Rents thereof, in the First Place in or towards the keeping down the Interest of the Money so to be borrowed by them or any of them respectively, and the Payment of the Expences incident to the borrowing the same, and the Residue of such Surplus in or towards the Discharge of the principal Money so to be borrowed.

Trustees for Charities to apply Surplus Rents for Payment of the Expences.

And be it further Enacted, That it shall and may be lawful for any Tenant or Tenants for Life or Lives of any Allotment or Allotments to be made by virtue and in pursuance of this Act, or of any such present inclosed Lands, by any Deed or Deeds in Writing, or by his, her, or their Last Will and Testament duly executed according to Law, to charge such Allotment or Allotments, or such present inclosed Lands respectively, with such Sum or Sums of Money as shall be appointed by the said Commissioners, or any Three or more of them, to be paid, and which shall have been accordingly paid by such Tenant or Tenants for Life or Lives, for his, her, or their Share and Proportion of the Expences of this present Act, and of the Division and Inclosure to be made in pursuance thereof, so that the same do not exceed the Sum of Forty Shillings for every Acre of such Allotment or Allotments and present inclosed Lands; and by such Deed or Deeds, or Last Will and Testament, to direct and appoint the Money so to be charged on such Allotment or Allotments or present inclosed Lands, to be paid to such Person or Persons and in such Manner, Share, and Proportion, as he, she, or they shall think fit, with Interest for the same, to commence from the Day of the Death of such Tenant or Tenants for Life or Lives respectively.

Tenants for Life may also by Deed or Will charge their Estates with the Expences of the Act.

And be it further Enacted, That every such Grant, Mortgage, Lease, or Demise, and every such Charge to be made of, in, or upon the said Lands and Grounds, or any Part or Parts thereof in pursuance of this

Such Charge to be good in Law.

Act, shall be good, valid, and effectual in the Law for the Purposes thereby intended, notwithstanding any Settlement, Will, Trust, Use, Remainder, or Limitation of or concerning the said Lands and Grounds, or any Part or Parts thereof, then in being or capable of taking Effect to the contrary.

Power to
assign such
Securities.

And it is hereby further Enacted and Declared, by the Authority aforesaid, That all and every Person or Persons to whom any Grant, Mortgage, Lease, or Demise shall be made by virtue of this Act as a Security for any Sum or Sums of Money by him, her, or them lent and advanced on the Credit and for the Purposes in this Act mentioned, or who shall be intitled to the Money thereby secured, shall and may from time to time by any Deed or Deeds, Writing or Writings under his, her, or their Hand and Seal or Hands and Seals, to be executed in the Presence of Two or more credible Witnesses, assign or transfer the same Security or Securities, or the principal Money and Interest thereby secured, and all Benefit thereof, and all his, her, and their Right, Title, and Interest in and to the same, unto any Person or Persons whatsoever, who may again in like Manner assign the same, and so *solies quoties*; and such Mortgagee or Mortgagees, Assignee or Assignees, his, her, and their Executors and Administrators, and all Persons claiming under them or any of them, shall and may use, take, and pursue all such lawful Methods, Courses, and Expedients in Law or Equity for recovering and obtaining the Possession of the Premises so to be mortgaged, demised, or assigned as aforesaid, in case of Non-payment of the principal Money and Interest to be thereby secured, or any Part thereof, as is or are used, taken, and pursued in all Cases of the like Nature.

For recover-
ing the Ex-
pences of
Persons re-
fusing to pay.

And be it further Enacted, by the Authority aforesaid, That in case any Person or Persons to whom any Allotment or Allotments shall be made by virtue of this Act (except the said *Lynford Caryl* and his Successors, and the said *Thomas Hutton* and *John Hutton*, Lessees of his Improprate Tithes, in Trust for the said *Bryan Cooke*, and the said *Thomas Earl Fauconberg* and his Heirs, and the said *William Harding* and his Successors, Improprators and Vicars of the several Medieties of *North Muskham* aforesaid, for and on account of the Lands so to be allotted to them respectively in Lieu of Tithes, and the said *William Harding* and his Successors for and on account of the Lands to be allotted to him or them in Lieu of Glebe as aforesaid) shall neglect or refuse to inclose, hedge, ditch, and fence his, her, or their Allotment or Allotments within the Time aforesaid, or in the Manner to be directed by the said Award or Instrument, or in case they or any of them, shall neglect or refuse to pay and defray such his, her, or their respective Proportion or Proportions, as the said Commissioners, or any Three or more of them, shall direct, of the reasonable Charges and Expences incident to and attending the Obtaining of this Act, or of making the said Survey, or of preparing and inrolling the said Award or Instrument, or of fencing and inclosing the several Allotments to be made to the said *Lynford Caryl* and his Successors, and the said *Thomas Hutton* and *John Hutton* as Lessees of his Improprate Tithes, in Trust for the said *Bryan Cooke*; and

to

to the said *Thomas Earl Fauconberg*, and his Heirs, Impropriators as aforesaid in Lieu of Tithes, and to the said *William Harding*, and his Successors, Vicars of the several Medieties of *North Muskham* aforesaid, in Lieu of their Glebe and Tithes in Manner as aforesaid, or of making the several publick Highways, Drift-ways, Horse-ways, and Foot-ways, and private Roads and Ways, Ditches, Fences, Banks, Drains, Shuttles, Bridges, Gates, and Stiles, or of the said Commissioners, or of any other necessary Expences incurred or to be incurred by them or any of them in the Execution of this Act, within such Time and in such Manner as the said Commissioners, or any Three or more of them, shall limit, direct, or appoint, then and in all or any or either the said Cases, the said Commissioners, or any Three or more of them, shall and may cause such Allotment or Allotments respectively, or any of them, to be inclosed, hedged, ditched, and fenced as they shall think proper; and in order to defray the Expences of inclosing, hedging, ditching, and fencing the same, and also such Proportion and Proportions of the other Charges and Expences of obtaining and putting this Act in Execution as shall be charged upon the same Allotment or Allotments as aforesaid, in respect whereof such Default shall be made, or any Part thereof, it shall and may be lawful to and for the said Commissioners, or any Three or more of them, from time to time, by Warrant or Warrants under their Hands and Seals, to levy and raise such Sum and Sums of Money as they shall think necessary and sufficient to inclose, hedge, ditch, and fence such Allotment or Allotments, and to defray such Proportion and Proportions of the said Charges and Expences respectively, as the Case shall be, by Distress and Sale of the Goods and Chattels of the Person or Persons so neglecting or refusing as aforesaid, wheresoever the same can be found, together with all Costs, Charges, and Expences incident to or attending such Distress and Sale or occasioned by such Neglect or Refusal, rendering the Overplus of the Money (if any) to arise by such Sale, after the Payment of such Proportion of the said Charges and Expences, and the Costs of such Distress and Sale and all other such Costs, Charges, and Expences as aforesaid are deducted, to the Owner or Owners of such Goods and Chattels upon Demand; or otherwise it shall and may be lawful to and for the said Commissioners, or any Three or more of them, to enter into and upon the Lands and Grounds to be allotted, or into and upon the present inclosed Lands belonging to such Person or Persons so neglecting or refusing as aforesaid, and to take and receive the Rents, Issues, and Profits thereof respectively, until thereby or therewith or otherwise the Share or Shares, Proportion or Proportions of the said Costs and Charges so to be directed and appointed by the said Commissioners, or any Three or more of them, to be paid by such Person or Persons so neglecting or refusing to pay the same as aforesaid, and also the Costs, Charges, and Expences occasioned by or attending such Entry and Perception of the Rents and Profits of the same Premises, and all other Costs, Charges, Disbursements, and Expences of the said Commissioners, or any of them, occasioned by any such Neglect or Refusal, shall respectively be fully paid and satisfied.

And be it further Enacted, That if any Person or Persons shall think him, her, or themselves aggrieved by any Thing done in pursuance of this Act (other than and except in such Cases where the Orders and Determinations of the said Commissioners are herein before declared to be final and conclusive) then and in every such Case he, she, or they may appeal to the next

Persons aggrieved may Appeal.

General Quarter Sessions of the Peace which shall be held for the said County of *Nottingham*, within Six Calendar Months after the Cause of Complaint shall have arisen; and the Justices in their said General Quarter Sessions are hereby authorized, impowered, and required to hear and determine the Matter of every such Appeal, and to make such Order, and award such Costs and Damages, as to them in their Discretion shall seem reasonable, and by their Order or Warrant to levy the Costs and Damages which shall be so awarded by Distress and Sale of the Goods and Chattels of the Party or Parties liable to pay the same, rendering the Overplus (if any) to the Owner or Owners of such Goods and Chattels, after deducting the reasonable Charges of such Distress and Sale; which Determination of the said Justices shall be final and conclusive to all Parties concerned, and shall not be removed or removeable by *Certiorari*, or any other Writ or Process whatsoever, in any of his Majesty's Courts of Record at *Westminster*, or elsewhere.

Saving of
Rights to the
Lord of the
Manor.

Provided always, and be it further Enacted, by the Authority aforesaid, That this Act shall not prejudice the Rights of the present Lord or Lords of the said Manor of *North Muskham*, or of any future Lord or Lords of the said Manor, of, in, or to the Seignories, Royalties, Rights and Services incident and belonging to the said Manor; but that such Lord or Lords for the Time being, and all Persons claiming and to claim under and in Trust for him or them, as Lord or Lords of the said Manor, shall at all Times hereafter hold and enjoy all Rents, Services, Rights, Royalties, Courts, Perquisites and Profits of Courts, and other Royalties, Privileges and Jurisdictions to the said Manor, or to the Lord or Lords thereof belonging (other than and except the Right to the Soil and Inheritance of such Parcels of Land as shall be allotted by virtue of this Act to any other Person or Persons, and all such Right of Common as can or may be claimed by the Lord or Lords of the said Manor, upon the Lands hereby intended to be inclosed) in as full, ample, and beneficial a Manner to all Intents and Purposes, as he or they might have held and enjoyed the same in case the Act had not been made.

General Sav-
ings.

Saving always to the KING's most Excellent MAJESTY, his Heirs and Successors, and to all and every other Person and Persons, Bodies Politick and Corporate, his, her, and their Heirs, Successors, Executors, and Administrators (other than and except such Bodies Politick and Corporate and such Person and Persons, his, her, and their Heirs, Successors, Executors, Administrators, and Assigns, to whom any Allotments shall be made by virtue of this Act, and all Persons claiming by, from, or under them or any of them respectively) all such Right, Title, Estate, and Interest as they, every or any of them, had or enjoyed of, in, to, over, or in respect of the said open Fields, Meadows, common Pastures and waste Grounds respectively before the Passing of this Act, or could or ought to have enjoyed in case the same had never been made; but no such other Person or Persons, Bodies Politick, Corporate, or Collegiate, his, her, or their Heirs, Executors, Administrators, or Successors, shall have Power to disturb any of the Allotments to be made in pursuance of this Act; but shall accept the respective Allotments which shall be made in Lieu of the Lands, Common Rights, or other Interest which he, she, or they could have been intitled to in case this Act had not been made.

county
t shall
hereby
ter of
d Da
their
arded
Partie
ner of
harge
s shall
ved of
r, inn

thorin
t Lon
Lord of
Righ
ch Lon
n unde
shall a
pyalties
vileges
reof be
e of suc
r Perfo
imed b
ended
ents an
case th

his He
dies Pe
tors, an
orporate
s, Execu
be made
ler them
nterest a
in respo
Ground
o have en
Person of
or the
er to dis
but shal
he Land
have be

A N
A C T

F O R

Dividing and Inclosing the Open Fields,
Meadows, Common Pastures, and
Waste Grounds within the Townships
of *North Myfham, Holme, and Baibley*
in the Parish of *North Myfham*, in
the County of *Nottingham*.

[1771]

<